Remarks

By this amendment, claims 1, 8, and 15 will be revised. No new matter will be added. No claims are cancelled or added. Claims 1-21 thus will remain pending.

Reconsideration of the application, as amended, is requested.

Rejections under 35 U.S.C. 112

In the Office action, the phrase "the amount of the hydrate and the water content thereof being sufficient to completely hydrate all the metal chloride" is objected to for allegedly lacking clarity.

Applicant respectfully disagrees. The meaning of that phrase would be clear to a person of ordinary skill in the art. But to facilitate prosecution and because that term is not required to distinguish the prior art, the claims are amended to remove the phrase.

Rejections under 35 U.S.C. 103

All the pending claims stand rejected as allegedly being obvious from some combination of publications including Ruff et al (5,066,472) in view of WO 03/033115 (using Hirano et al, US 2004/0258596 as unofficial English translation) and Terry et al (3,900,312).

All the pending claims also stand rejected as allegedly being obvious from some combination of publications including Breneman et al (4,743,344) in view of Keller et al (3,878,291), WO '115 (using Hirano '596 as an unofficial English translation) and Terry '312.

Applicant respectfully disagrees.

In particular, the cited WO 03/033115 is not prior art and should be withdrawn as a reference cited against this application.

At least the independent claims of the present application are entitled to a priority filing date of April 1, 2003, because those independent claims are fully supported by U.S. Provisional Application No. 60/459,867.

The independent claims of the present application are quite similar to claims 1, 7, and 13 of U.S. Provisional Application No. 60/459,867. Additional support for the present independent claims can be found in the specification of U.S. Provisional Application No. 60/459,867 at page 8, line 10; page 8, lines 14-18; and page 9, line 7.

The publication date of WO 03/033115 is April 24, 2003, which is after the filing date of U.S. Provisional Application No. 60/459,867.

WO 03/033115 can be prior art only as of its publication date. Applicant is not aware of any basis on which WO 03/033115 could be prior art as of an earlier date.

In particular, WO 03/033115 cannot be not prior art under 35 USC 102(e) because it was published in Japanese, not in English:

> **35 U.S.C. 102 Conditions for patentability; novelty and loss of right to patent.**
>
> A person shall be entitled to a patent unless . . .
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and **was published under Article 21(2) of such treaty in the English language** . . ..
>
> (emphasis added)

Because WO 03/033115 is not prior art, it cannot be combined with other publications to provide the basis for an obviousness rejection.

All the obviousness rejections thus should be withdrawn and the claims allowed.

Conclusion

In the absence of the teachings of WO 03/033115, the cited publications, whether taken alone or together, fail to suggest the presently claimed methods for the reasons discussed in the earlier-filed amendments.

The pending claims now should be allowed.

Should the next action be something other than a Notice of Allowance, Applicant respectfully asserts that it would be improper to make the next Office action a "final" rejection. This is because WO 03/033115 is not prior art and because WO 03/033115 is cited as part of the basis for each and every one of the 35 U.S.C. 103 rejections.

Respectfully submitted,

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